

2009 MAY 18 AM 11:02

CLERK

*[Signature]*  
SO. DIST. OF GA.

UNITED STATES OF AMERICA,      )  
                                      )  
                                      )  
vs.                                )      No. CR407-122  
                                      )  
                                      )  
SHAWN HAMILTON,                )  
                                      )  
                                      )  
Defendant.                      )

**ORDER**

Shawn Hamilton has filed a motion for judgment of acquittal challenging the sufficiency of the evidence and the legality of a traffic stop related to his convictions on drug and gun charges. [Doc 90]

A trial jury convicted Hamilton of all three charges against him in the indictment – i.e., possession with intent to distribute five grams or more of crack cocaine and Ecstasy in violation of 21 U.S.C. §841(a)(1) and (b)(1)(B); possession of a firearm by a convicted felon in violation of 18 U.S.C. §922(g)(1); and using and carrying a firearm during a drug trafficking crime in violation of 18 U.S.C. §924(c). [Doc 53, Doc 59] This Court sentenced Hamilton to a total term of imprisonment of 157 months, reflecting 97 month sentences on the first two counts to run concurrently and a 60 month sentence on the §924(c) count to run

consecutively. [Doc 78-Pg 2]

Hamilton appealed, and the Eleventh Circuit affirmed. [Doc 89] Relevant to Hamilton's current motion, his claims include a challenge to his traffic stop, which officers effected after seeing a violation of O.C.G.A. §40-6-240 (the improper backing statute); a challenge to the sufficiency of the evidence supporting his drug conviction; and a challenge to the sufficiency of the evidence supporting his firearm convictions. [Doc 89]

The Eleventh Circuit's opinion on the issues raised by Hamilton is the law of the case. Under the law of the case doctrine, district and appellate courts are bound by a prior appellate decision in the same case. See Alphamed, Inc. v. B. Braun Med., Inc., 367 F.3d 1280, 1285-86 (11th Cir. 2004). Moreover, Hamilton's motion for judgment of acquittal is untimely. See Fed. R. Crim. P. 29(c)(1) (requiring post-verdict motions for judgment of acquittal to be made within 7 days after guilty verdict). Thus, the Court **DENIES** Hamilton's motion for judgment of acquittal.

SO ORDERED this 18 day of Tracy, 2009.

  
\_\_\_\_\_  
HON. B. AVANT EDENFIELD  
UNITED STATES DISTRICT JUDGE